

A Regular Meeting of the Town of Avon was held on Thursday, February 25, 2010 at 6:00 P.M. at the Avon Opera Block/Town Hall with the following members present:

PRESENT: Supervisor David LeFeber, and Councilmen Donald Cook, Thomas Mairs, and James Blye

ABSENT: Deputy Supervisor Kelly Cole

OTHERS: Attorney James Campbell (left at 7:15 P.M.), Town Engineer Timothy Rock, Water Superintendent Daniel McKeown, Code Enforcement Officer Anthony Cappello and Town Clerk Sharon M. Knight, CMC/RMC

VISITORS: David Peck and Avon Representative to the Livingston County Traffic & Safety Board Dennis Wright

Supervisor LeFeber called the meeting to order at 6:00 P.M.

Pledge of Allegiance

DISCUSSION ATTORNEY REPORT

Attorney James Campbell reported on the following:

There was a positive meeting with LeClaire Flemming as they are not interested in holding-up the Town's collecting of grant money. There are issues with the need for the Town to have provided reasonable information for bidders. Attorney Campbell recommended a follow-up meeting be held quickly although Deputy Supervisor Cole was out of town.

In reference to the discussions at the last meeting regarding Royal Springs Development Phase II concept and district extension, a letter was received stating the developer would be permitted to provide for the Board's consideration a revised Phase 2 Concept map incorporating changes addressing the concerns of the Town and Planning Board.

A copy of the original lease with AT&T was provided by Supervisor's Secretary Mary Blye and negotiations are being held.

The BOND resolution regarding the Henty Road water project has been prepared and everything is in order. He recommended the Board adopt a legal notice for the estoppel.

RESOLUTION #40 HENTY ROAD BAN

On motion of Councilman Cook, seconded by Councilman Mairs the following resolution was ADOPTED BY A ROLL CALL VOTE AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Cole)

RESOLUTION #40 HENTY ROAD BAN –continued

At a Meeting of the Town Board of the Town of Avon, in the County of Livingston, New York, held at the Avon Town Hall, 23 Genesee Street, Avon New York 14414 on February 25, 2010

PRESENT: Supervisor David LeFeber
Councilman Donald Cook
Councilman James Blye
Councilman Thomas Mairs

ABSENT: Deputy Supervisor Kelly Cole

The following resolution was offered by Councilman Cook who moved its adoption, seconded by Councilman Mairs, to-wit:

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF \$227,370 IN SERIAL BONDS OF THE TOWN TO FINANCE THE COST OF ACQUIRING AND CONSTRUCTING CERTAIN IMPROVEMENTS TO THE TOWN OF AVON CONSOLIDATED WATER DISTRICT ALONG HENTY ROAD

WHEREAS, by Resolution #191, dated November 19, 2009, the Town Board of the Town of Avon (the "Town Board") adopted a Negative Declaration in accordance with the provisions of the State Environmental Quality Review Act, and the regulations thereunder (collectively, "SEQRA") with respect to the construction of certain improvements within the Town of Avon Consolidated Water District along Henty Road, between NYS Route 15 and Pole Bridge Road (the "Extension"), consisting of approximately 6,450 linear feet of 8" PVC water main; the installation of approximately seven (7) hydrants, service laterals, valves, and pumps (the "Improvements") and determined that such actions would not have an adverse impact on the environment and that such actions comply with the requirements of SEQRA; and

WHEREAS, by Resolution #192, dated November 19, 2009, the Town Board approved, in accordance with Sections 198 and 199 of the Town Law, the Improvements as shown on the Extension Map on file at the County Clerk's Office, and authorized the construction of the Improvements at a maximum cost not to exceed \$227,370; and

RESOLUTION #40 HENTY ROAD BAN -continued

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK, HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), AS FOLLOWS:

The Town is hereby authorized to issue \$227,370 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of acquiring, constructing and equipping of the Improvements including, as necessary, the acquisition of lands and easements and other rights therein, the construction or reconstruction of curbs, gutters, drainage, landscaping and grading, and including any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith (the "Project").

It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$227,370, said amount is hereby appropriated therefore and the plan for the financing thereof shall consist of the issuance of up to \$227,370 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation of such serial bonds.

It is hereby determined that the period of probable usefulness of the aforementioned specific objects or purposes is forty (40) years, pursuant to subdivision a.1. of Section 11.00 of the Law.

Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof, pursuant to subdivision d.3(a) of Section 107.00 of the Law.

The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bond or bond anticipation notes authorized by Section 1 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by the United States Treasury Regulations Section 1.150-2.

The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to Section 1 of this resolution.

Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the

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budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of serial bonds and/or bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of bonds, herein authorized, including without limitation, the determination whether to issue bonds having substantially level or declining annual debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor of the Town, the chief fiscal officer of the Town (the "Town Supervisor"). Further, the power to issue and sell bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law is hereby delegated to the Town Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Local Finance Law. Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for one or more of the objects or purposes authorized by this resolution are combined for sale, pursuant to subdivision c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

The Town Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as

RESOLUTION #40 HENTY ROAD BAN –continued

Exchange Commission pursuant to the Securities Exchange Act of 1934.

The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements, and instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

This resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to cause a copy of this resolution to be published in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Law.

The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the Constitution.

The following vote was taken and recorded in the public or open session of said meeting:

AYES:

NAYS:

Supervisor David LeFeber
Councilman Donald Cook
Councilman James Blye
Councilman Thomas Mairs

Deputy Supervisor Kelly Cole (Absent)

This resolution shall take effect immediately.

Dated: February 25, 2010

Vote of the Board: Councilman Blye – Aye, Councilman Mairs – Aye, Councilman Cook- Aye, Deputy Supervisor Cole – Absent, Supervisor LeFeber - Aye

DISCUSSION HENTY ROAD BAN AMOUNT

There was discussion on the amount needed to BAN for the Henty Road water project. Discussion included the possibility of need to increase the water rate, slippage, the

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DISCUSSION HENTY ROAD BAN AMOUNT-continued

advantages of continuing to add new water customers and low interest rates. The Board appeared to agree the amount to be \$170,000.00.

DISCUSSION ATTORNEY REPORT

A complete review of the approved Ashantee Planned Unit Development (PUD) was made and there is no authorization for the riding arena to be used as it's currently being used. Supervisor LeFeber reported that he had conversations with the current owner and shared with the board the current use and projected short term use.

The Board recognizes the need for the owner to provide a proposal of use of the property. Councilman Blye discussed the need to receive the proposal as the property may not have the potential for this type of use and the need for that determination needs to be made as soon as possible. The seller of the property may have legal responsibility. Attorney James Campbell is interested in speaking to the property owner's attorney.

The Avon Rotary-Lions Ambulance is looking at a site on Lake Road. A letter was provided regarding the office space availability at the Opera Block/Town Hall.

The Board continues to review the proposed Avon Preservation & Historical Society lease.

Upon the return of Deputy Supervisor Cole, work will continue on the building policies and procedures.

Code Enforcement Officer Anthony Cappello reported that during a meeting the homes in the Royal Springs Development were inspected and that both American Inland and Common Wealth are not familiar with the inspectors that completed the inspections. They will let us know how we should proceed. Pink slip inspections were provided to the Town Code Department and were the basis of issuing the Certificate of Occupancy; however, white slips are provided by both American Inland and Common Wealth.

Visitor David Peck stated he is interested in what Dennis Wright, County Traffic Safety Representative, was going to report.

RESOLUTION #41 APPROVAL OF MINUTES

On motion of Councilman Blye, seconded by Councilman Cook the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Cole)

RESOLUTION #42 APPROVAL OF MINUTES

On motion of Councilman Cook, seconded by Councilman Mairs the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Cole)

RESOLVE to approve the minutes of February 11, 2010 as presented.

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Absent, Supervisor LeFeber - Aye

DISCUSSION HIGHWAY REPORT

Highway Superintendent Ayers was not in attendance as he was working on the roads with snow fall.

DISCUSSION - CODE ENFORCEMENT REPORT

Code Enforcement Officer Anthony Cappello reported on the following:

There was discussion on a request to build a home from Mr. Harper. Previous Town of Avon Code Books dealt with trailer parks and was removed from the Code. Councilman Blye reported that Chapter 85 was appealed and refers you to chapter 130 which states that trailer parks are not allowed. A subdivision of property will be needed and would require a three acre parcel that has 250 feet of frontage.

The discussion on electrical inspections continued and that eight of the homes had electrical problems and three were not grounded. Supervisor LeFeber question what the Town's liability was and Code Enforcement Officer Cappello stated that we will be receiving a list of approved Electrical Inspectors and recommendation from American Inland and Common Wealth on how to move forward.

DISCUSSION - WATER REPORT

Water Superintendent McKeown reported he will be attending a meeting next week regarding Route #39. At this time, it appears a financial package will be offered and that it can include previous costs.

He then questioned Councilman Cook regarding why he expected there to be an increase in the water rate. He responded stating a recoup/equalization is needed due to the low volume of water use of Kraft as projected. Water Superintendent McKeown was invited to attend the next water meeting as a review of the numbers will be discussed.

DISCUSSION - ENGINEERING REPORT

Engineer Rock reported on the Route #39 Water District Extension:

The New York State Department of Conservation (DEC) water supply agreement is expected to be approved within a few days.

The plans were provided to the New York State Department of Transportation (DOT) in November and we are awaiting their required approval.

Cost of the formation of the district has included the attorney costs and other legal costs, a grant writer (Livingston County provided some financial support) and engineering.

Supervisor LeFeber would like a meeting with the residents giving them an update.

RESOLUTION #43 PAYMENT OF BILLS

On motion of Councilman Cook, seconded by Councilman Blye, the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Cole)

Concerning ABSTRACT of Claims Number 2010-4 including claims as follows:

General Fund	Voucher #91 through #108 in amounts totaling \$11,940.41
Highway Fund	Voucher #43 through #52 in amounts totaling \$3,822.74
Water Fund	Voucher #36 through #40 in amounts totaling \$46,187.83
Cemetery Fund	Voucher # 2 through # 2 in amounts totaling \$240.00
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	No Voucher
Cross Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town Of Avon Fire Protection	No Voucher
Water Capital Improvement	No Voucher

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Absent, Supervisor LeFeber - Aye

DISCUSSION-OPEN ITEMS

Councilman Cook offered to work with Councilman Blye on the Comprehensive Plan.

Supervisor LeFeber opened the discussion on the need to fill positions. Recreation Board Chairman Kim McDowell would like to have the new members available by March 30th, for the kick-off. An advertisement for the positions of Recreation Board -2, Avon Representative to serve as an Alternate to the Livingston County Traffic & Safety Board and the term that will expire on the Water Works Committee. The deadline will be one week.

Notification will be made to both the Water Works Committee Member and the Village Mayor.

The joint meeting with the Village will be the second Town Board meeting in April.

There was discussion of the need to have someone, in addition to Deputy Supervisor Cole, trained on the maintenance of the building including the heating system. The heating and air conditioning system is being run on a trial and error process.

We did receive a refund on the electric bill that was questioned at a previous meeting.

Visitor David Peck addressed the board stating he read the agenda on our Web site and was interested in hearing Dennis Wright, the County Traffic Safety Representative. Visitor Peck stated that he had recently submitted a request for services in regards to the number of incidents on Lake Road in front of his and neighbor's homes. Twelve cars have gone off the road in the past two months. Town Clerk Knight reported that the Request was provided to the Highway Superintendent and a snow fence can not be installed as the ground is frozen.

Councilman Mairs stated he received a similar request for a snow fence on Route #15 between the County line and Barber Road.

Town Clerk Knight addressed the Board on the following:

There was an update of the Livingston County Planning Department's initiative of establishing a Complete Count Committee. The importance of counting as many people in both the Town of Avon and Livingston County was discussed. Town Clerk Knight requested adding a link to our web site as well as put together a display of Census information to increase awareness and provide opportunities to participate.

Councilman Blye stated his opposing position regarding any Town's involvement in the census, however; the Board approved the display and link.

A request to purchase a Kodak ESP Office 6150 All-in-one-printer was made. It would serve as copier/fax/printer. This would allow the old water printer currently being used by the Town Clerk to be used in the storage area in the lower level. Councilman Cook

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DISCUSSION-OPEN ITEMS-continued

state the pricing of the ink is much lower on this type of equipment and would review if the fax would be able to only send. Town Clerk suggested he discuss with Hurricane Technology Tom Vonglis.

A final request was to ask Jennifer to change the recording on the Court's answering message as the open hours currently are limited due to vacation. Code Enforcement Officer Cappello will make the request to Clerk to the Town Justice Jennifer Sargeant.

DISCUSSION - AVON REPRESENTATIVE TO THE LIVINGSTON COUNTY TRAFFIC & SAFETY BOARD DENNIS WRIGHT REPORT

Supervisor LeFeber provided the Board, and those in attendance, with a copy of a correspondence from the Livingston County Traffic Safety Board dated February 7, 2010. Dennis Wright updated the Board on his activity as the Town Representative as follows:

Overview of the first year on the committee

- A. Took 2 requests from Avon residents to the Board for review
- B. Participating member of a review team for a concern for lighting at 390&408 Ramp
- C. Attended the Hemlock and Caledonia Fair with Executive Secretary of the Board
- D. Attended Health Fair at Wayland-Cohocton School with Executive Secretary
- E. Represented the LCTSB as a speaker at the New York Highway Safety Symposium in Saratoga Springs in the fall. Spoke on "How to Make Work Zones Safer, With The Driver in Mind"

DISCUSSION - AVON REPRESENTATIVE TO THE LIVINGSTON COUNTY TRAFFIC & SAFETY BOARD DENNIS WRIGHT REPORT-continued

encourage individual citizens to send requests to the Department of Transportation. They will conduct studies including accident data.

There was discussion of working with Livingston County Sheriff's Department Major Chris Smith, Dennis's working with the DOT for thirty-three years, speed readers that have the ability to take photos, the role of the Traffic and Safety Board, the importance of educating drivers, and the mission of the State Police Department to have a vehicle at every high speed construction site.

Dennis shared his continued availability of time, compassion and interest in the position.

Some Livingston County issues include drivers attempting to enter Route #390 via the exit ramp in Mt. Morris.

Supervisor LeFeber reported that he would be receiving a follow-up call from Livingston Cares offering workers for small jobs. Code Enforcement Officer Cappello stated he would be able to provide things for them to do.

Code Enforcement Officer Cappello also reported there is a new law requiring carbon monoxides and it will not be monitored by the Code Department.

On motion of Councilman Cook, seconded by Councilman Blye, the meeting adjourned at 8:05 P.M.

Respectfully submitted by, 
Sharon M. Knight, CMC/RMC, Town Clerk